IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.661 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.J.M. mehta & Co.P.Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 4TH APRIL, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under :-

> " Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee is entitled to investment allowance under section 32A in respect of the machinery leased by the assessee ?"

2. The above question has already been answered by the Apex Court in the case of **C.I.T. V/s. Shaan Finance (P) Ltd. [(1998) 231 I.T.R. 308 (S.C.)** in the affirmative i.e. in favour of the assessee and against the revenue. In this view of the matter, reference stands disposed of in terms of that Judgment with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)